

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS
November 17, 2009

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Harold Collins.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Headmaster Tim Russell, from Westminster Academy. Councilman Conrad presented Mr. Russell with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of November 3, 2009 with the following motion:

MOTION: Ford
SECOND: Strickland
AYES: Brown, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins
Boyd and Conrad did not cast a vote

APPROVED

4. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTH SIDE OF E. H. CRUMP BOULEVARD, ±252 FEET WEST OF MISSISSIPPI BLVD., CONTAINING 0.40 ACRE IN THE LOCAL COMMERCIAL (C-L) DISTRICT.**

Case No. SUP 09-213

Held until December 1, 2009

1. **RESOLUTION RECOGNIZING ST. BENEDICT FOR WINNING THE STATE VOLLEYBALL CHAMPIONSHIPS IN THEIR RESPECTIVE DIVISIONS.**

MOTION: Boyd

SECOND: Ford

APPROVED, unanimous voice vote

2. **RESOLUTION RECOGNIZING EVANGELICAL CHRISTIAN SCHOOL FOR WINNING THE STATE VOLLEYBALL CHAMPIONSHIPS IN THEIR RESPECTIVE DIVISIONS.**

APPROVED, unanimous voice vote

3. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE WEST SIDE OF THIRD STREET, ±506 FEET NORTH OF WALKER AVENUE, CONTAINING 0.62 ACRE IN THE LOCAL COMMERCIAL (C-L) DISTRICT.**

Case No. SUP 09-214

Applicant: Pyramid Used Cars, Inc.
Cindy Reaves, SR Consulting, LLC – Representative

Request: Motor Vehicle Sales

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

MOTION: Morrison

SECOND: Brown

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins
Halbert did not cast a vote

APPROVED, as amended

5. **ORDINANCE REZONING THE SOUTHWEST CORNER OF WALNUT STREET AND TATE AVENUE, CONTAINING 1.29 ACRES (DEVELOPMENT SITE) AND 0.65 ACRE (ZONING AMENDMENT) IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Case No. Z 09-103
Ordinance No. 5335

Applicant: Urban Construct, LLC
Tiena Gwin – Representative

Request: Multiple Dwelling Residential (R-MM) District

LUCB and OPD recommendation: APPROVAL

MOTION: Morrison

SECOND: Strickland

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman Collins

APPROVED

CONSENT AGENDA – Items 6 – 12 & #29 may be acted upon by one motion: SEE PAGE 3105 FOR ROLL CALL

6. **ORDINANCE TO AMEND CABLE FRANCHISE ORDINANCE NO. 4159, EXTENDING THE FRANCHISE ORDINANCE AS AMENDED, UP FOR S E C O N D READING.**

Ordinance No. 5331

APPROVED, on Second reading

7. **ORDINANCE TO AMEND CHAPTER 21, CODE OF ORDINANCES, CITY OF MEMPHIS, TO AMEND CERTAIN SECTIONS OF ORDINANCE NO. 5217, ARTICLE III OF THE CODE OF ORDINANCES REGULATING JUNK AND SCRAP METAL DEALERS, UP FOR S E C O N D READING.**

Ordinance No. 5332

APPROVED, on Second reading

8. **ORDINANCE REZONING THE SOUTH SIDE OF FRAYSER BOULEVARD, 150 FEET WEST OF THOMAS STREET, CONTAINING 3.49 ACRES IN THE MULTIPLE DWELLING RESIDENTIAL (R-MM) DISTRICT, UP FOR S E C O N D READING.**

Case No. Z 09-104
Ordinance No. 5336

APPROVED, on Second reading

9. **ORDINANCE REZONING THE NORTHEAST CORNER OF LAMAR AVENUE AND TUGGLE ROAD, CONTAINING 18.77 ACRES IN THE HIGHWAY COMMERCIAL (CH) DISTRICT, UP FOR S E C O N D READING.**

Case No. Z 09-106
Ordinance No. 5337

APPROVED, on Second reading

10. **RESOLUTION ACCEPTING UNIVERSITY PLACE, PHASE 1, STREET AND DRAINAGE IMPROVEMENTS AND AUTHORIZING RELEASE OF BOND.**

(Contract No. CR-5043)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the southeast corner of Crump Boulevard and Sommerville Street. The standard improvement contract was approved on November 7, 2006. Resolution also authorizes the release of the performance bond in the amount of \$1,501,656.00.

City Engineer recommends approval

APPROVED

11. **RESOLUTION ACCEPTING UNIVERSITY PLACE P.D., PHASE 2 AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 06-344
(Contract No. CR-5086)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located south of E. H. Crump Boulevard, west of I-240. The standard improvement contract was approved on August 7, 2007. Resolution also authorizes the release of the performance bond in the amount of \$1,308,439.00.

City Engineer recommends approval

APPROVED

12. **NOTATION FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASE WAS HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

A. Case No. SAC 09-607 – Cleveland Street Alley Closing

Public Hearing Set for December 1, 2009

29. **ORDINANCE TO ESTABLISH MEETING DATES FOR CITY COUNCIL MEETINGS
IN 2010, UP FOR F I R S T READING.**

Ordinance No. 5338

APPROVED, on First reading

ROLL CALL CONSENT ITEMS

MOTION: Ford

SECOND: Ware

AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Conrad did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 13 - 16 may be acted upon by one motion:

13. **RESOLUTION AWARDDING CONTRACT NO. 11355, LINE CLEARANCE, TO BEAN
& PRINCE CONTRACTORS, INC. IN THE FUNDED AMOUNT OF \$7,876,040.00.**

APPROVED

14. **RESOLUTION AWARDDING CONTRACT NO. 11362, ELECTRONIC FORMS
ROUTING, TO B P LOGIX IN THE FUNDED AMOUNT OF \$238,300.00.**

APPROVED

15. **RESOLUTION AWARDDING CONTRACT NO. 11363, GRAPHICAL USER
INTERFACE (G.U.I.) REPLACEMENT SOFTWARE, TO SEAGULL, IN THE FUNDED
AMOUNT NOT TO EXCEED \$130,500.00.**

APPROVED

16. **RESOLUTION AWARDDING CONTRACT NO. 11386, INTERNET SERVICE
PROVIDER, TO AT&T BUSINESS SYSTEMS, BY AND THROUGH THE PRE-
EXISTING “CONTRACT BETWEEN THE STATE OF TENNESSEE, DEPARTMENT
OF FINANCE AND ADMINISTRATION AND AT&T CORPORATION,” IN THE
FUNDED AMOUNT OF \$232,200.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware

SECOND: Strickland

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

30. **RESOLUTION TO SUPPORT AND APPROVE GRANTING OF JOB RETENTION INCENTIVES THROUGH THE PAYMENT-IN-LIEU-OF-TAX (PILOT) PROGRAM OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY (IDB). THE PURPOSE OF THIS RESOLUTION IS TO AID IN PRESERVING JOBS OF EXISTING MEMPHIS AND SHELBY COUNTY BUSINESSES THAT ARE BEING THREATENED BY THE DOWNTURN OF THE U.S. ECONOMY. IN ORDER TO QUALIFY FOR A JOB RETENTION PILOT, COMPANIES MUST MEET THE REQUIREMENTS OUTLINED IN EXHIBIT A THAT INCLUDE: INVESTMENT, JOB RETENTION, FINANCIAL STABILITY AND BENEFIT COST CRITERIA. QUALIFYING COMPANIES MUST ALSO COMPLY WITH OVERALL PILOT GUIDELINES.**

Chairman Collins recognized the following people who spoke from the audience:

Clifford Stockton, 516 Montaigne Blvd., Memphis, TN. 38103
Reid Dulberger, 22 N. Front St., Memphis, TN. 38103

MOTION: Boyd
SECOND: Ford
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland, Ware and Chairman Collins
Conrad recused
Hedgepeth did not cast a vote

APPROVED

17. **ELECTION OF THE 2010 CITY COUNCIL CHAIRMAN.**

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and Chairman Collins
Lowery abstained
Hedgepeth did not cast a vote

APPROVED

18. **ELECTION OF THE COUNCIL VICE CHAIRMAN.**

MOTION: Morrison
SECOND: Brown

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote

APPROVED

19. **APPOINTMENT**

Memphis & Shelby County Air Pollution Board

Reappointment

DORIS F. BOYD

MOTION: Flinn
SECOND: Strickland
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote

APPROVED

20. **ORDINANCE FIXING TAX RATE OF THE CITY OF MEMPHIS FOR THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS, UP FOR T H I R D AND F I N A L READING. (HELD FROM 7/7; 7/21; 8/4; 8/18; 9/1; 9/15; 10/6; 11/3)**

Ordinance No. 5319

Held until December 1, 2009

21. **ORDINANCE TO REVISE CHAPTER 15, SECTION 15-11(D), OF THE CITY OF MEMPHIS CODE OF ORDINANCES, PERTAINING TO THE DIMENSIONS OF LIMBS AND LOGS COLLECTED BY THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING. (HELD FROM 10/20; 11/3)**

Ordinance No. 5329

Director of Public Works recommends approval

Held until December 15, 2009

22. **RESOLUTION TRANSFERRING \$479,000.00 FROM THE CITY COURT LEGAL LEVEL 870101 TO THE NEW CITY COURT LEGAL LEVEL 870201 FOR RED LIGHT CAMERA.**

MOTION: Halbert
SECOND: Strickland
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland,
Ware and Chairman Collins

Brown and Hedgepeth did not cast a vote

APPROVED

23. **RESOLUTION APPROVING THE BUDGETS FOR THE ELECTRIC, GAS AND WATER DIVISIONS FOR THE 2010 OPERATION AND MAINTENANCE EXPENSES AND THE 2010 CAPITAL EXPENDITURES.**

Chairman Collins recognized the following person who spoke from the audience:
Bill Hawkins, 4000 Clearpool Circle, Memphis, TN. 38118

(Councilwoman Fullilove made a motion to restore the vacant positions and remove the \$1,000,000.00 for the Automatic Meter Readers. After further discussion of this item, Councilwoman Fullilove withdrew her motion and without object, made a motion for this item to be delayed for two weeks).

Held until December 1, 2009

24. **RESOLUTION REQUESTING APPROVAL TO FUND \$1,407,721.00 OF THE TOTAL APPROPRIATION APPROVED BY THE COUNCIL ON MAY 19, 2009 IN CONTRACT CONSTRUCTION IN GREENWAY IMPROVEMENTS, CIP PROJECT NUMBER PK07012, FUNDED BY G.O. BONDS GENERAL FOR THE CONSTRUCTION OF THE WOLF RIVER GREENWAY, PHASE 2.**

Chairman Collins recognized the following people who spoke from the audience:
Syd Lerner, 2039 Quail Creek Cove, Memphis, TN. 38119
Keith Kirkland, 368 Angelus St., Memphis, TN. 38112

MOTION: Strickland
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote

APPROVED

25. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$6,345,093.00 FROM THE U.S. DEPARTMENT OF JUSTICE FOR THE AMERICAN REINVESTMENT AND RECOVERY ACT (ARRA) FUNDING THROUGH THE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) GRANT, SPECIFICALLY FOR THE COPS HIRING RECOVERY PROGRAM (CHRP). RESOLUTION ALSO AMENDS THE FY2010 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Strickland
SECOND: Ford

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland,
Ware and Chairman Collins
Hedgepeth and Morrison did not cast a vote

APPROVED

26. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$734,919.00 FROM SHELBY COUNTY GOVERNMENT, GRANTED THROUGH THE U.S. DEPARTMENT OF JUSTICE FOR THE JUSTICE ASSISTANCE GRANT SPECIFICALLY FOR PUBLIC SAFETY PROJECTS. RESOLUTION ALSO AMENDS THE FY2010 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Strickland
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland,
Ware and Chairman Collins
Hedgepeth and Morrison did not cast a vote

APPROVED

27. **RESOLUTION ACCEPTING GRANT FUNDS FROM THE DEPARTMENT OF JUSTICE (DOJ), BUREAU OF JUSTICE ASSISTANCE FY09 SMART POLICING, EVIDENCE-BASED LAW ENFORCEMENT AND SMART POLICING DEMONSTRATION INITIATIVE (SAFWAYS – OLD ALLEN), IN THE AMOUNT OF \$500,000.00. RESOLUTION ALSO AMENDS THE FY2010 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE \$500,000.00 IN GRANT FUNDS.**

MOTION: Strickland
SECOND: Fullilove
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland, Ware
and Chairman Collins
Hedgepeth and Morrison did not cast a vote

APPROVED

28. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF SIX MILLION SEVEN HUNDRED SIXTY SEVEN THOUSAND TWO HUNDRED DOLLARS (\$6,767,200.00) FROM THE U.S. DEPARTMENT OF ENERGY FOR THE RECOVERY ACT ENERGY EFFICIENCY CONSERVATION BLOCK GRANT. RESOLUTION ALSO AMENDS THE FY2010 OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Boyd
SECOND: Fullilove
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison,

Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote

APPROVED

31. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$394,500.00 FROM THE U.S. DEPARTMENT OF JUSTICE FOR THE SCA (SECOND CHANCE ACT) BACK ON TRACT PROJECT. SCA BACK ON TRACK WILL PARTNER AND TRANSITION THE SHELBY COUNTY DIVISION OF CORRECTIONS SERVICES WITH THE CITY'S POST-RELEASE PROGRAMS AND SERVICES. RESOLUTION ALSO AMENDS THE FY2010 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Brown
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote

APPROVED

(Councilwoman Fullilove made a motion to approve Same Night Minutes for Items #24, #30 & #31, from tonight's meeting).

(Special Item #2)

MOTION: Fullilove
SECOND: Strickland
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland,
Ware and Chairman Collins
Conrad recused
Hedgepeth did not cast a vote

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following persons who spoke from the audience:

Walter Broady, III, 4256 Ledbetter Cv., Memphis, TN. 38109
Breck Fawn (This office was not given the appearance card for this speaker)

ADJOURNED MEETING AT 5:47 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records